

REMARKS

Claims 1, 3 and 7-17 are currently pending in the subject application and have been examined on the merits. Claims 1, 10 and 13 have been amended. No new matter has been added.

Claims 1, 3 and 7-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stovall (WO 99/04720, hereinafter “Stovall”) in view of Murphy (WO 00/29553, hereinafter “Murphy”).

Applicants respectfully traverse this rejection. For reasons set forth in Applicants’ response filed on January 17, 2006, Applicants respectfully submit that its claims are patentable over Stovall and Murphy.

In any event, solely to expedite prosecution, Applicants have amended the independent claims 1, 10, and 13 to more clearly recite the following limitation: grafting the bioremodelable cultured connective tissue construct to close the opening in the annulus fibrosis in the absence of exogenous matrix components or synthetic members. Support for this amendment is found in the specification as filed (*e.g.*, page 2 line 15 to page 16 line 2). Applicants respectfully submit that, in addition to the reasons set forth in Applicants’ previous response, this amendment overcomes the outstanding rejection of Stovall and Murphy.

Specifically, Stovall teaches and suggests a method for treating a ruptured intervertebral disc which comprises (1) aspirating all or part of a cell-containing gel from the disc, (2) excising the damaged tissue from the annulus fibrosis of the ruptured disc leaving a hole, (3) covering the hole with a layer containing cells attached to a porous matrix comprising a crosslinked biocompatible polymer and (4) injecting a cell-containing suspension into the disc. In other words, Stovall requires the use of a biocompatible polymer to cover the opening or hole. (*e.g.*, p. 2, lines 10-18; p. 6, line 11 – p. 8, line 3; p. 10, line 16-p. 11, line 4).

In other words, Stovall does not teach or suggest Applicants' limitation of closing the opening in the ruptured disc in the absence of exogenous matrix components or synthetic members as recited in Applicants' amended claims. And even if Murphy teaches a method for producing the specific tissue constructs recited in Applicants' claims, it fails to make up for this deficiency. That is, the combination of Stovall with Murphy still does not teach and suggest this aforementioned claim limitation.

Therefore, for the reasons set forth above, Applicants respectfully submit that claims 1, 3 and 7-17 are patentable and request that such rejection be withdrawn. In light of the foregoing, the application is now believed to be in proper condition for allowance and a Notice to that effect is respectfully requested. If this *37 C.F.R. § 1.114 AMENDMENT AND REPLY* does not otherwise result in the issue of such Notice, the Examiner is respectfully invited to contact the Applicants' undersigned counsel for an interview.

No extra fee is believed due. However, if any additional fees are necessary, the Director is hereby authorized to charge such fees or credit any overpayment to Deposit Account No. 50-0540.

Respectfully submitted,

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